

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

|   |   |                 |
|---|---|-----------------|
| NATIONAL LABOR RELATIONS BOARD            | : |                 |
|   | : |                 |
| Petitioner                                | : |                 |
| v.  | : | No.             |
|   | : |                 |
| PROFESSIONAL SECURITY OFFICERS AND        | : |                 |
| INVESTIGATORS OF AMERICA AND PROFESSIONAL | : | Board Case No.: |
| SECURITY OFFICERS AND INVESTIGATORS       | : | 14-CB-126322    |
| OF AMERICA, LOCAL 101 (DECO, INC.)        | : |                 |
|   | : |                 |
| Respondent                                | : |                 |

APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT  
ENFORCING AN ORDER OF  
THE NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States  
Court of Appeals for the Tenth Circuit:

The National Labor Relations Board (the “Board”), pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)), applies to this Court for summary entry of a judgment enforcing its order against Professional Security Officers and Investigators of America and Professional Security Officers and Investigators of America, Local 101 (DECO, Inc.) (“Respondent”). The Board is entitled to summary enforcement of its order in full because Respondent failed to file with the Board exceptions to the administrative law judge’s decision of December 15, 2014. In support, the Board shows:

### **A. Jurisdiction of this Court**

This Court has jurisdiction over this application under Section 10(e) of the Act (29 U.S.C. § 160(e)). Venue is proper in this Circuit because the unfair labor practices found by the Board occurred in Oklahoma. The Board's final order issued on January 29, 2015.

### **B. Proceedings Before the Board**

1. On October 22, 2014, the Director for Region 14 issued an Amended Complaint and Notice of Hearing in Case No. 14-CB-126322, charging Respondent with certain violations of the Act.

2. Following proceedings before Administrative Law Judge Arthur J. Amchan, the judge issued a decision on December 15, 2014, finding that Respondent had violated the Act and recommending that an order be issued requiring that the Respondent cease and desist from the unfair labor practices found, and take certain affirmative action to remedy those unfair labor practices, including posting an appropriate notice.

3. On December 15, 2014, the Board issued an order transferring the proceeding to the Board and notifying the Respondent that the Board must receive exceptions to the administrative law judge's decision by January 12, 2015.

4. Section 10(c) of the Act (29 U.S.C. § 160(c)) provides that "if no exceptions are filed [with the Board] within twenty days after service [of the

administrative law judge's decision] upon the parties, or within such further period as the Board may authorize, such recommended order shall become the order of the Board and become effective as therein prescribed." Section 102.46 and 102.48 of the Board's Rules and Regulations (29 C.F.R. 102.46 and 102.48) implement this provision and provide that, in the event no exceptions are filed within 28 days, the decision of the administrative law judge shall be adopted by the Board and all objections and exceptions thereto are waived for all purposes.

5. Respondent did not file exceptions with the Board.

6. In the absence of any exceptions to the administrative law judge's decision, on January 29, 2015, the Board issued an order adopting the administrative law judge's findings and conclusions, and directing the Respondent to take the action set forth in the Judge's recommended order.

### **C. The Board Is Entitled to Summary Enforcement of Its Order**

The Board is entitled to summary entry of a judgment enforcing its order because, by failing to file exceptions with the Board challenging the administrative law judge's decision, the Respondent failed to raise any issues before the Board. Section 10(e) of the Act (29 U.S.C. § 160(e)) provides that "no objection that has not been urged before the Board . . . shall be considered by the court, unless the failure or neglect to urge such objection shall be excused by extraordinary circumstances." This limitation is jurisdictional and its application is mandatory.

*Woelke & Romero Framing v. NLRB*, 456 U.S. 645, 666-67 (1982). Interpreting this requirement, this Court and other circuits have consistently held that a respondent's failure to file any exceptions before the Board entitles the Board, absent extraordinary circumstances, to summary entry of a judgment enforcing its order. *NLRB v. Peyton Fritton Stores*, 336 F.2d 769, 770 (10th Cir. 1964). Accord, e.g., *NLRB v. Tri-State Warehouse & Distrib.*, 677 F.2d 31, 31 (6th Cir. 1982); *NLRB v. Int'l Union of Operating Eng'rs, Local 86*, 357 F.2d 841, 846-47 (3d Cir. 1966); *NLRB v. Pugh & Barr, Inc.*, 194 F.2d 217, 218-21 (4th Cir. 1952). No extraordinary circumstances are present here.

WHEREFORE, the Board respectfully requests that the Court take jurisdiction of the proceedings, serve notice of the filing of this application upon Respondent, and enter judgment summarily enforcing the Board's order in full. A proposed judgment is attached.

/s/ Linda Dreeben

Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1099 14th Street, N.W.  
Washington, D.C. 20570

Dated in Washington, D.C.  
this 3rd day of March, 2015

Oklahoma City, OK

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

PROFESSIONAL SECURITY OFFICERS  
AND INVESTIGATORS OF AMERICA AND  
PROFESSIONAL SECURITY OFFICERS  
AND INVESTIGATORS OF AMERICA,  
LOCAL 101 (DECO, INC.)

Case 14-CB-126322

and

GLENN LEE

**ORDER**

On December 15, 2014, Administrative Law Judge Arthur J. Amchan of the National Labor Relations Board issued his Decision in the above-entitled proceeding and, on the same date, the proceeding was transferred to and continued before the Board in Washington, D.C. The Administrative Law Judge found that the Respondent-Union has engaged in certain unfair labor practices, and recommended that it take specific action to remedy such unfair labor practices.

No statement of exceptions having been filed with the Board, and the time allowed for such filing having expired,

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, and Section 102.48 of the National Labor Relations Board Rules and Regulations, the Board adopts the findings and conclusions of the Administrative Law Judge as contained in his Decision, and orders that the Respondent-Union, Professional Security Officers and Investigators of America and Professional Security Officers and Investigators of America, Local 101 (DECO, Inc.), its

officers, agents, and representatives, shall take the action set forth in the recommended Order of the Administrative Law Judge.

Dated, Washington, D.C. January 29, 2015.

By direction of the Board:

/s/Farah Z. Qureshi

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Associate Executive Secretary

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES

PROFESSIONAL SECURITY OFFICERS AND  
INVESTIGATORS OF AMERICA AND  
PROFESSIONAL SECURITY OFFICERS AND INVESTIGATORS  
OF AMERICA, LOCAL 101  
(DECO, INC.)

and

Case 14-CB-126322

GLENN LEE, an Individual

*Lyn R. Buckley, Esq.*, for the General Counsel.  
*Kris Kelley*, for the Respondent.

DECISION

STATEMENT OF THE CASE

Arthur J. Amchan, Administrative Law Judge. On November 13, 2014, I issued an order dismissing Respondent's Answer and deeming all allegations in the complaint admitted. I also directed the General Counsel to submit a brief or memorandum to explain how the complaint allegations constituted a violation of the Act. I issued the November 13 order because of the Respondent Union's failure to comply with a show cause order that I issued on November 6, 2014. On November 6, I ordered Respondent to file a sworn affidavit that it would appear at the hearing in this matter scheduled for November 18, 2014.

I issued the November 6 Show Cause Order because Respondent Union had repeatedly ignored requests to participate in a conference call and had given every indication that it did not intend to show up at the hearing.

The General Counsel has filed a brief as I directed. The Complaint alleges that Respondent Union violated Section 8(b)(1)(A) is refusing to refund special project dues, also known as restrictive break dues, collected for the months of July, August and September 2013 to at least 8 bargaining unit employees.

Respondent filed an Answer to the original complaint on August 13, 2014, in which it admitted that it did not refund the dues as alleged in the complaint, but refunded this money only to members who were in good standing as of the end of September 2013. Respondent asserted that, or implied, that those unit employees to whom refunds were not paid were delinquent in their dues payments. Given Respondent's lack of cooperation in this matter, specifically its failure to comply with the Notice to Show Cause, I find that Respondent failed to refund the special project dues as alleged and that it had no factual or legal basis for doing so.

As a legal matter, I conclude that Respondent has a duty under Section 8(b)(1)(A) to refund the special project dues in a manner that is not arbitrary, discriminatory or in bad faith. I find on the basis of the record in this case, that Respondent Union failed to refund the special project dues in this case in a manner that was arbitrary, discriminatory, or in bad faith and that it breached its fiduciary duty to the unit employees to whom refund payments were not made, in violation of Section 8(b)(1)(A) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>1</sup>

#### ORDER

The Respondent, Professional Security Officers and Investigators of America and Professional Security Officers and Investigators of America, Local 101 , its officers, agents, and representatives, shall

1. Cease and desist from

(a) Withholding the refund of special project dues that was collected in July, August and September 2013 to any bargaining unit employees.

(b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act

(a) Within 14 days of this Order, refund to all unit employees who have not previously received this refund, the amounts collected as special project dues for the months of July, August and September 2013.

(b) Within 14 days after service by the Region, post at its business office and other places where notices to its members are customarily posted, copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 14,

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<sup>1</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."



after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its members by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., December 15, 2014.

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Arthur J. Amchan  
Administrative Law Judge

**APPENDIX**

**NOTICE TO MEMBERS**

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join, or assist a union  
Choose representatives to bargain on your behalf with your employer  
Act together with other employees for your benefit and protection  
Choose not to engage in any of these protected activities.

WE WILL NOT refuse to refund special project dues that was collected in July, August and September 2013 to any bargaining unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days of the Board's order, refund special project dues that was collected in July, August and September 2013 to all bargaining unit employees who have not received such refunds previously.

PROFESSIONAL SECURITY OFFICERS AND  
INVESTIGATORS OF AMERICA AND  
PROFESSIONAL SECURITY OFFICERS AND  
INVESTIGATORS OF AMERICA, LOCAL 101  
(DECO, INC.)  
\_\_\_\_\_  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: [www.nlrb.gov](http://www.nlrb.gov).

1222 Spruce Street, Room 8.302, Saint Louis, MO 63103-2829  
(314) 539-7770, Hours: 8 a.m. to 4:30 p.m.

The Administrative Law Judge's decision can be found at [www.nlr.gov/case/14-CB-126322](http://www.nlr.gov/case/14-CB-126322) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.



**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (314) 539-7780.

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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| NATIONAL LABOR RELATIONS BOARD            | : |                 |
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| Petitioner                                | : |                 |
| v.  | : | No.             |
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| INVESTIGATORS OF AMERICA AND PROFESSIONAL | : | Board Case No.: |
| SECURITY OFFICERS AND INVESTIGATORS       | : | 14-CB-126322    |
| OF AMERICA, LOCAL 101 (DECO, INC.)        | : |                 |
|   | : |                 |
| Respondent                                | : |                 |

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment and proposed judgment has this day been served by first class mail upon the following parties at the addresses listed below:

Kris Kelly, Union Pres.  
Professional Security Officers and  
Investigators of America, Local 101  
7626 SW 89th St.  
Oklahoma City, OK 73169

Steve Jurina  
Professional Security Officers  
and Investigators of America  
1936 County Rd. 1211  
Tuttle, OK 73089

/s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1099 14th Street, N.W.  
Washington, D.C. 20570

Dated at Washington, D.C.  
this 3rd day of March, 2015

SERVICE SHEET

RESPONDENT:

Kris Kelly, Union Pres.  
Professional Security Officers and  
Investigators of America, Local 101  
7626 SW 89th St.  
Oklahoma City, OK 73169

Tel: (405) 633-1201  
Email: krisakelley@gmail.com

RESPONDENT:

Steve Jurina  
Professional Security Officers and  
Investigators of America  
1936 County Rd. 1211  
Tuttle, OK 73089

Tel: (405) 550-2036  
Email: younggun042002@yahoo.com

CHARGING PARTY:

Glenn Lee  
333 NW 121st St.  
Oklahoma City, OK 73114-7302

Tel: (405) 606-9071

INVOLVED PARTY:

DECO INC.  
5005 N Pennsylvania Ave., Ste. 300  
Oklahoma City, OK 73112-8872

Tel: 405) 218-6476  
Fax: (405) 286-4786

REGIONAL DIRECTOR:

Daniel L. Hubbel, Regional Director  
National Labor Relations Board  
1222 Spruce Street, Room 8.302  
Saint Louis, MO 63103-2829

INVOLVED PARTY'S COUNSEL:

Mark R. Gleeman, Esq.  
Winthrop & Weinstine P.A.  
225 S. Sixth St., Ste. 3500  
Minneapolis, MN 55402-4629

Tel: (612) 604-6677  
Fax: (612) 604-6877  
Email: mgleeman@winthrop.com



UNITED STATES GOVERNMENT

**NATIONAL LABOR RELATIONS BOARD**

**OFFICE OF THE GENERAL COUNSEL**

Washington, D.C. 20570

March 3, 2015

Clerk, United States Court of  
Appeals for the Tenth Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square, Room 1702  
New York, NY 10007

*Re: NLRB v. Professional Security Officers  
and Investigators of America and Professional  
Security Officers and Investigators of America,  
Local 101 (DECO, Inc.), Board Case No. 14-  
CB-126322*

Dear Clerk:

I am sending to the Court at [10th\\_Circuit\\_Clerk@ca10.uscourts.gov](mailto:10th_Circuit_Clerk@ca10.uscourts.gov) a copy of the Board's application for summary entry of a judgment enforcing the Board's order in this case and a proposed judgment.

Please serve a copy of the application on Respondent, whose addresses appear on the service list. I have served a copy of the application and proposed judgment on each party admitted to participate in the Board proceedings and their names and addresses appear on the service list.

I am counsel of record for the Board, and all correspondence should be addressed to me. I would appreciate your furnishing the Board's Regional Director, whose name and address also appear on the service list, with a copy of all

correspondence the Court sends to counsel in this case, and a copy of the judgment issued.

Very truly yours,

/s/ Linda Dreeben

Linda Dreeben  
Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1099 14th Street, N.W.  
Washington, D.C. 20570  
(202) 273-2960

cc & documents to: Service List

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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| NATIONAL LABOR RELATIONS BOARD            | : |                 |
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| OF AMERICA, LOCAL 101 (DECO, INC.)        | : |                 |
|   | : |                 |
| Respondent                                | : |                 |

JUDGMENT ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Professional Security Officers and Investigators of America and Professional Security Officers and Investigators of America, Local 101 (DECO, Inc.), its officers, agents, and representatives, enforcing its order dated January 29, 2015, in Case No. 14-CB-126322, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Professional Security Officers and Investigators of America and Professional Security Officers and Investigators of America, Local 101 (DECO, Inc.) , its officers, agents, and representatives, shall abide by said order. (See attached Order and Appendix).

FOR THE COURT:

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DATED:



NATIONAL LABOR RELATIONS BOARD

v.

PROFESSIONAL SECURITY OFFICERS AND INVESTIGATORS OF  
AMERICA AND PROFESSIONAL SECURITY OFFICERS AND  
INVESTIGATORS OF AMERICA, LOCAL 101 (DECO, INC.)

**ORDER**

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1. Cease and desist from
  - (a) Withholding the refund of special project dues that was collected in July, August and September 2013 to any bargaining unit employees.
  - (b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act
  - (a) Within 14 days of this Order, refund to all unit employees who have not previously received this refund, the amounts collected as special project dues for the months of July, August and September 2013.
  - (b) Within 14 days after service by the Region, post at its business office and other places where notices to its members are customarily posted, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 14, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its members by such means. Reasonable

steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

- (c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

## APPENDIX

### NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES  
COURT OF APPEALS ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join, or assist a union

Choose representatives to bargain on your behalf with your employer

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities

WE WILL NOT refuse to refund special project dues that was collected in July, August and September 2013 to any bargaining unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days of the Board's order, refund special project dues that was collected in July, August and September 2013 to all bargaining unit employees who have not received such refunds previously.

Professional Security Officers and Investigators of  
America and Professional Security Officers and  
Investigators of America, Local 101 (DECO, Inc.)

---

(Employer)

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
(Representative) (Title)

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